

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY CORREA, :
Plaintiff, :
: v. :
: :
CAPTAIN JAMES E. GINTY, DEPUTY :
OFFICER RUGGIERO, LT. CHRISTOPHER :
BINI, HAROLD L. SMITH, CPL. :
COLANGELO, and CPL. MATIS, :
Defendants. :
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ORDER

20 CV 5791 (VB)

On July 24, 2020, plaintiff commenced this action jointly with two other plaintiffs. (Doc. #2). By Order dated August 12, 2020, the Court severed the plaintiffs' claims and ordered that plaintiff Anthony Correa would proceed as the sole plaintiff in this action. (Doc. #8).

On September 30, 2020, plaintiff filed a notice of change of address, noting his address as:

Anthony Correa
#16A0887
Downstate Correctional Facility
Box F
Red Schoolhouse Road
Fishkill, NY 12524-0445

(Doc. #18). Since then plaintiff has not updated his address with the Court.

The Court has repeatedly ordered plaintiff to notify the Court in writing if his address changes, and warned that if he fails to do so the Court may dismiss the action. (Docs. ##10, 19).

On February 22, 2021, the Court received returned mail addressed to plaintiff at Downstate Correctional Facility with a notation that plaintiff was "No Longer Here." Similarly, on February 23, 2021, the Court received returned mail addressed to plaintiff at Downstate Correctional Facility with a notation that plaintiff was "No Longer Here."

Moreover, the New York State DOCCS “Inmate Lookup” indicates plaintiff was released from Collins Correctional Facility on December 30, 2020.

Furthermore, plaintiff has failed to oppose the pending motions to dismiss, despite a sua sponte extension to do so. (Doc. #40).

By Order dated April 8, 2021, the Court directed plaintiff to update the Court in writing as to his current address by May 10, 2021. The Court warned in bold and underlined typeface that if plaintiff failed to do so, it would deem this case abandoned and dismiss the case for failure to prosecute or comply with Court orders. (Doc. #44). The Court mailed this order to plaintiff at the address on the docket.

On April 15, 2021, the Court received as returned mail its April 8, 2021, Order, which had been mailed to plaintiff at Downstate Correctional Facility, with a notation that plaintiff was “No Longer Here.”

Accordingly, having considered all of the factors set forth in Lucas v. Miles, 84 F.3d 532 (2d Cir. 1996), the Court dismisses this case with prejudice for failure to prosecute and failure to comply with Court orders. Fed. R. Civ. P. 41(b).

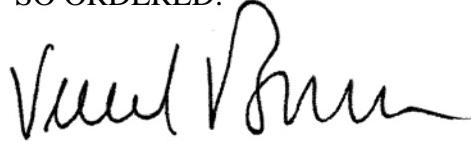
The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

The Clerk is instructed to close this case.

Dated: April 16, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge